

REMARKS

Applicants' respectfully request reexamination and reconsideration of the application in view of the following remarks.

Applicant's counsel appreciated having an opportunity to discuss the cited Cox and Agar references with regard to Applicant's claim in a telephone interview conducted on the 22nd of July of 2009.

Claims 1- 4 and 12 - 22 were canceled pursuant to a restriction requirement. Claim 23 has been canceled, claims 5, 7, 9, 9, and 11 have been amended, and new claims 24-42 have been added to the application. Fees for addition of the two additional dependent claims are enclosed herewith with the petition fees.

The Examiner has rejected claims 5-6, 8-9, and 23 under 35 USC 102(b) as being anticipated by Agar (5,632,128).

Applicant respectfully traverses the rejection and requests that the Examiner withdraw the rejection in view of amendment to the claim and for the following reasons.

Applicant has amended claim 5 to more clearly claim spikes which are grouped in pairs wherein one spike of each said pair is the same distance from a centerline of a face of said plate as compared to the other spike of each said pair and that the two spikes in each said pair are canted slightly toward one another in opposition to one another. Agar teaches a plurality of spikes but does not teach opposing spikes canted toward one another. Therefore, Agar does not anticipate amended claim 5 and Applicant believes claim 5 to now be patentable.

In view of Applicant's amendment to claim 5, Applicant submits that claim 6 claims a patentable combination.

In view of Applicant's amendment to claim 5, Applicant submits that claim 8 claims a combination which is not anticipated by Agar and Applicant believes claim 8 to now be patentable.

With respect to claim 9, Applicant respectfully traverses Examiner's allegation that Agar discloses means on a pull tab that project from said tab to space it from the surface of an impaled object. Agar's 'tabs' do not contain projections or ribs 18A as shown in Applicant's figure 2 which would cause his 'tab' to be spaced away from the impaled object. Further, in view of Applicant's amendment to claim 5, Applicant submits that claim 9 claims a combination which is not anticipated by Agar and Applicant believes claim 9 to now be patentable.

Applicant has amended claim 23 to more clearly claim spikes which are grouped in pairs wherein one spike of each said pair is the same distance from a centerline of a face of said plate as compared to the other spike of each said pair and that the two spikes in each said pair are canted slightly toward one another in opposition to one another. Agar teaches a plurality of spikes but does not teach opposing spikes canted toward one another. Therefore, Agar does not anticipate amended claim 23 and Applicant believes claim 23 to now be patentable.

The Examiner has rejected claims 5-7, 9-11, and 23 under 35 USC 102(b) as being anticipated by Cox et al. (5,435,111).

Applicant respectfully traverses the rejection and requests that the Examiner withdraw the rejection in view of amendment to the claim and for the following reasons.

Applicant has amended claim 5 to more clearly claim spikes which are grouped in pairs wherein one spike of each said pair is the same distance from a centerline of a face of said plate as compared to the other spike of each said pair and that the two spikes in each said pair are canted slightly toward one another in opposition to one another. Cox teaches a plurality of spikes but does not teach opposing spikes canted toward one another. Therefore, Cox does not anticipate amended claim 5 and Applicant believes claim 5 to now be patentable.

In view of Applicant's amendment to claim 5, Applicant submits that claim 6 claims a patentable combination.

In view of Applicant's amendment to claim 5, Applicant submits that claim 7 claims a combination which is not anticipated by Cox and Applicant believes claim 7 to now be patentable.

Applicant respectfully traverses Examiner's allegation that Cox discloses means on a pull tab that project from said tab to space it from the surface of an impaled object. Cox's 'tabs' do are formed so that they project away from an impaled object without the need of projecting means as disclosed by Applicant. Further, in view of Applicant's amendment to claim 5, Applicant submits that claim 9 claims a combination which is not anticipated by Cox and Applicant believes claim 9 to now be patentable.

In view of Applicant's amendment to claim 5, Applicant submits that claim 10 claims a combination which is not anticipated by Cox and Applicant believes claim 10 to now be patentable.

Applicant respectfully traverses Examiner's allegation that Cox discloses a plate wherein said plate and said pull tabs are coplanar. With reference to Cox's figure 2, "pull tabs" 14a and 14b clearly stand out from plate 10 and are therefore not coplanar with plate 10. Further, in view of Applicant's amendment to claim 5, Applicant submits that claim 11 claims a combination which is not anticipated by Cox and Applicant believes claim 11 to now be patentable.

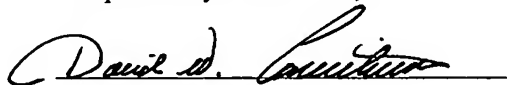
Applicant has amended claim 23 to more clearly claim spikes which are grouped in pairs wherein one spike of each said pair is the same distance from a centerline of a face of said plate as compared to the other spike of each said pair and that the two spikes in each said pair are canted slightly toward one another in opposition to one another. Cox teaches a plurality of spikes but does not teach opposing spikes canted toward one another. Therefore, Cox does not anticipate amended claim 23 and Applicant believes claim 23 to now be patentable.

In order for a reference to anticipate a claim, it must set forth each and every limitation and element contained in that claim. As amended, Applicant submits that the claims contain herein are not anticipated by the cited references or any other references known to Applicant.

For all of the foregoing reasons, Applicant submits that the claims are patentable over the cited references and that the application is in condition for allowance. Accordingly, Applicant respectfully requests prompt reconsideration and receipt of the formal Notice of Allowance. If the Examiner believes there are other unresolved issues in this case, Applicant's attorney would appreciate a telephone call at (502) 452-1233 to discuss any such remaining issues.

Payment for the Petition for the Extension of Time and additional claims are enclosed herewith. Please charge any underpayment or credit any overpayment to Counsel's deposit account No. 50-0642.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "David W. Carrithers", is written over a horizontal line.

David W. Carrithers
CARRITHERS LAW OFFICE, PLLC
The 1000 Building
6200 Dutchman's Lane, Suite 206
Louisville, KY 40205
Telephone (502) 452-1233
Reg. No. 35,475